

2011 DRAFTING REQUEST

Bill

Received: **11/19/2010**

Received By: **gmalaise**

Wanted: **As time permits**

Companion to LRB:

For: **Legislative Council - LRC 6-9791**

By/Representing: **Laura Rose**

May Contact:

Drafter: **gmalaise**

Subject: **Children - child welfare**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **laura.rose@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Unborn children in need of protection or services; notices to unborn child

Instructions:

See attached--require notices in unborn child in need of protection or services proceedings to be provided to the unborn child's GAL, not to the unborn child, by the unborn child's GAL

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	gmalaise 11/23/2010	edt_sbasford 12/09/2010	phenry 12/10/2010	_____	sbasford 12/10/2010		
/1	gmalaise 01/13/2012	jdyer 01/18/2012	rschluet 01/19/2012	_____	mbarman 01/19/2012		
/2	gmalaise 02/06/2012	jdyer 02/09/2012	rschluet 02/09/2012	_____	ggodwin 02/09/2012	sbasford 02/10/2012	

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None

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Handwritten notes:
2 2/9 jld
29/12
10 2/9
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Topic:

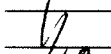
Unborn children in need of protection or services; notices to unborn child

Instructions:

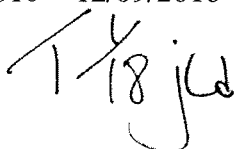
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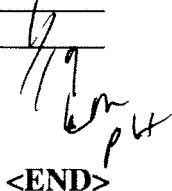
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/P1	gmalaise 11/23/2010	edt_sbasford 12/09/2010	pherry 12/10/2010		sbasford 12/10/2010		
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FE Sent For:






<END>

Malaise, Gordon

From: Rose, Laura
Sent: Tuesday, November 16, 2010 3:17 PM
To: Malaise, Gordon
Subject: FW: Department of Children and Families Law Revision Proposals
Attachments: law revision-1.pdf

Hi, Gordon,

Attached are the Law Revision remedial legislation proposals from DCF for the upcoming legislative session. I reviewed them, and I think they are okay. Please let me know if you have any questions.

Thanks very much,

Laura

Laura D. Rose, Deputy Director

Wisconsin Legislative Council

One East Main Street, Suite 401

PO Box 2536

Madison, WI 53701-2536

tel: 608.266.9791

fax: 608.266.3830

laura.rose@legis.wisconsin.gov

From: DCF Secretary Reggie Bicha [<mailto:DCFSecretaryReggieBicha@wisconsin.gov>]
Sent: Friday, October 29, 2010 3:20 PM
To: Anderson, Terry C.
Cc: Rose, Laura
Subject: Department of Children and Families Law Revision Proposals

I am attaching the Department of Children and Families Law Revision Proposals. Thank you.

Sincerely,

Reggie Bicha
Secretary

11/19/2010

Jim Doyle
Governor

Reggie Bicha
Secretary



State of Wisconsin
Department of Children and Families

201 East Washington Avenue, Room G200
P.O. Box 8916
Madison, WI 53708-8916

Telephone: 608-267-3905
Fax: 608-266-6836
dcf.wisconsin.gov

CORRESPONDENCE/ Memorandum _____ **State of Wisconsin**

Date: October 29, 2010

To: Director Terry Anderson
Legislative Council

From: Secretary Reggie Bicha *R. Bicha*
Department of Children and Families

Subject: Department of Children and Families Law Revision Proposals

The Department of Children and Families is seeking a number of technical amendments through the law revision process. Below are the proposals listed by program area and unless otherwise stated the proposal has not been introduced in previous sessions and have no fiscal effect.

2. Sending Notice to an Unborn Child

Specific Statutory Change

Section 48.357(1)(am)1. reads: "...written notice shall also be sent to the unborn child by the unborn child's guardian ad litem." The wording should be changed to something like "through the GAL." This same language regarding sending notice to unborn children is in several places throughout the statutes.

Administrative or Substantive Problem with Current Law and Need for the Change

Not making this revision would lead to confusion regarding whether notice should be mailed to an unborn child, which is impossible.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0568/P1
GMM.S.B.B

In 11/23

JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Sec Aff ✓
X-ref ✓

GenCat ✓

4

1 AN ACT ...; relating to: the provision of notices to, and the exercise of rights by,
2 an unborn child's guardian ad litem in unborn child in need of protection or
3 services proceedings (suggested as remedial legislation by the Department of
4 Children and Families) paren

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over an unborn child who is alleged to be in need of protection or services on the grounds that the unborn child's expectant mother habitually lacks self-control in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree, to the extent that there is a substantial risk that the physical health of the unborn child will be seriously affected or endangered unless the expectant mother receives prompt and adequate treatment for that habitual lack of self-control (commonly referred to as a "UCHIPS proceeding").

In a UCHIPS proceeding, the unborn child, by or through the unborn child's guardian ad litem (GAL), is entitled to receive notice of all hearings involving the unborn child, including specifically hearings involving the temporary physical custody and changes in placement of the expectant mother and revisions to or extensions of the dispositional order. The unborn child, by or through the unborn child's GAL, is also entitled to exercise certain rights as a party to the proceeding, including the right to request a substitution of judge, to inspect records relevant to the proceeding, to demand a public fact-finding hearing or a jury trial, or to request

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a change in placement or revision or extension of the dispositional order. In addition, an unborn child, by or through the unborn child's GAL, may request or authorize the disclosure of law enforcement, juvenile court, or social services records relating to the expectant mother of the unborn child.

This bill eliminates the provision of those notices and the exercise of those rights by, an unborn child, by or through the unborn child's GAL. Rather, the bill requires those notices to be provided to, and permits those rights to be exercised by, the unborn child's GAL.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Children and Families and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 SECTION 1. 48.20 (8) (b) of the statutes is amended to read:

2 48.20 (8) (b) If the child is an expectant mother who has been taken into custody
3 under s. 48.19 (1) (cm) or (d) 8., ~~the unborn child, through~~ the unborn child's guardian
4 ad litem, shall receive the same notice about the whereabouts of the child expectant
5 mother, about the reasons for holding the child expectant mother in custody, and
6 about the detention hearing as the child expectant mother and her parent, guardian,
7 legal custodian, or Indian custodian. The intake worker shall notify the child
8 expectant mother, her parent, guardian, legal custodian, or Indian custodian, and
9 ~~the unborn child, by~~ the unborn child's guardian ad litem.

History: 1977 c. 354, 449; 1979 c. 300; 1983 a. 189 s. 29 (5); 1993 a. 16, 56, 98, 385; 1995 a. 27, 77; 1997 a. 292; 2009 a. 94.

10 SECTION 2. 48.203 (7) of the statutes is amended to read:

11 48.203 (7) If an adult expectant mother is held in custody, the intake worker
12 shall notify the adult expectant mother and ~~the unborn child, through~~ the unborn
13 child's guardian ad litem, of the reasons for holding the adult expectant mother in

1 custody, the time and place of the detention hearing required under s. 48.213, the
2 nature and possible consequences of that hearing, and the right to present and
3 cross-examine witnesses at the hearing.

History: 1997 a. 292.

History: 1997 a. 292.

4 **SECTION 3.** 48.21 (3) (b) of the statutes is amended to read:

5 48.21 (3) (b) If present at the hearing, a copy of the petition or request shall be
6 given to the parent, guardian, legal custodian, or Indian custodian, and to the child
7 if he or she is 12 years of age or older, before the hearing begins. If the child is an
8 expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8.,
9 a copy of the petition shall also be given to ~~the unborn child,~~ through the unborn
10 child's guardian ad litem, before the hearing begins. Prior notice of the hearing shall
11 be given to the child's parent, guardian, legal custodian, and Indian custodian, to the
12 child if he or she is 12 years of age or older and, if the child is an expectant mother
13 who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., to ~~the unborn child,~~
14 through the unborn child's guardian ad litem, under s. 48.20 (8).

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16, 61, 109; 2005 a. 232; 2007 a. 20; 2009 a. 28, 79, 94.

15 **SECTION 4.** 48.213 (2) (c) of the statutes is amended to read:

16 48.213 (2) (c) A copy of the petition shall be given to the adult expectant mother,
17 and to ~~the unborn child,~~ through the unborn child's guardian ad litem, before the
18 hearing begins. Prior notice of the hearing shall be given to the adult expectant
19 mother and unborn child child's guardian ad litem in accordance with s. 48.203 (7).

History: 1997 a. 292; 2001 a. 61.

20 **SECTION 5.** 48.213 (2) (d) of the statutes is amended to read:

21 48.213 (2) (d) Prior to the commencement of the hearing, the adult expectant
22 mother and ~~the unborn child,~~ through the unborn child's guardian ad litem, shall be
23 informed by the court of the allegations that have been made or may be made, the

1 nature and possible consequences of this hearing as compared to possible future
2 hearings, the right to confront and cross-examine witnesses, and the right to present
3 witnesses.

History: 1997 a. 292; 2001 a. 61.

4 **SECTION 6.** 48.245 (3) of the statutes is amended to read:

5 48.245 (3) The obligations imposed under an informal disposition and its
6 effective date shall be set forth in writing. The child and a parent, guardian, and
7 legal custodian; the child expectant mother, her parent, guardian, and legal
8 custodian, and ~~the unborn child by~~ the unborn child's guardian ad litem; or the adult
9 expectant mother and ~~the unborn child by~~ the unborn child's guardian ad litem shall
10 receive a copy, as shall any agency providing services under the agreement.

plain comma

History: 1977 c. 354; 1979 c. 300, 331, 359; 1985 a. 311; 1987 a. 27, 285, 339, 403; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 275, 448; 1997 a. 80, 292; 2007 a. 199; 2009 a. 79.

11 **SECTION 7.** 48.245 (8) of the statutes is amended to read:

12 48.245 (8) If the obligations imposed under the informal disposition are met,
13 the intake worker shall so inform the child and a parent, guardian, and legal
14 custodian; the child expectant mother, her parent, guardian, and legal custodian,
15 and ~~the unborn child by~~ the unborn child's guardian ad litem; or the adult expectant
16 mother and ~~the unborn child by~~ the unborn child's guardian ad litem, in writing, and
17 no petition may be filed on the charges that brought about the informal disposition
18 nor may the charges be the sole basis for a petition under ss. 48.13 to 48.14.

History: 1977 c. 354; 1979 c. 300, 331, 359; 1985 a. 311; 1987 a. 27, 285, 339, 403; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 275, 448; 1997 a. 80, 292; 2007 a. 199; 2009 a. 79.

19 **SECTION 8.** 48.255 (4) of the statutes is amended to read:

20 48.255 (4) A copy of a petition under sub. (1) shall be given to the child if the
21 child is 12 years of age or over and to the parents, guardian, legal custodian, and
22 physical custodian. A copy of a petition under sub. (1m) shall be given to the child
23 expectant mother, if 12 years of age or over, her parents, guardian, legal custodian,

1 and physical custodian, and ~~the unborn child by~~ ✓ the unborn child's guardian ad litem
2 or to the adult expectant mother, ~~the unborn child through~~ ✓ the unborn child's
3 guardian ad litem, and the physical custodian of the expectant mother, ✓ if any. If the
4 child is an Indian child who has been removed from the home of his or her parent or
5 Indian custodian or the unborn child will be an Indian child when born, a copy of a
6 petition under sub. (1) or (1m) shall also be given to the Indian child's Indian
7 custodian and tribe or the Indian tribe with which the unborn child may be eligible
8 for affiliation when born.

History: 1977 c. 354; 1991 a. 263; 1995 a. 27, 77, 352; 1997 a. 292; 2001 a. 109; 2009 a. 94.

9 **SECTION 9. 48.27 (3) (a) 1.** of the statutes is amended to read:

10 48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a
11 situation under s. 48.13 or a situation under s. 48.133 involving an expectant mother
12 who is a child, the court shall notify, under s. 48.273, the child, any parent, guardian,
13 and legal custodian of the child, any foster parent, treatment foster parent, or other
14 physical custodian described in s. 48.62 (2) of the child, ~~the unborn child by~~ ✓ the
15 unborn child's guardian ad litem, if applicable, and any person specified in par. (b),
16 (d), or (e), if applicable, of all hearings involving the child except hearings on motions
17 for which notice must be provided only to the child and his or her counsel and, if
18 applicable, to the unborn child's guardian ad litem. ✓ If parents who are entitled to
19 notice have the same place of residence, notice to one constitutes notice to the other.
20 The first notice to any interested party, foster parent, treatment foster ✓ parent, or
21 other physical custodian described in s. 48.62 (2) shall be in writing and may have
22 a copy of the petition attached to it. Notices of subsequent hearings may be given by
23 telephone at least 72 hours before the time of the hearing. The person giving

1 telephone notice shall place in the case file a signed statement of the time notice was
2 given and the person to whom he or she spoke.

NOTE: NOTE: Subd. 1. is repealed and recreated by 2009 Wis. Act 94 effective the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9), as created by 2009 Wisconsin Act 28 to read:NOTE:

3 SECTION 10. 48.27 (3) (a) 1. of the statutes, as affected by 2009 Wisconsin Act
4 94, section 47, and 2011 Wisconsin Act (this act), is repealed and recreated to read:

5 48.27 (3) (a) 1. If the petition that was filed relates to facts concerning a situation under s. 48.13 or
6 a situation under s. 48.133 involving an expectant mother who is a child, the court shall notify, under
7 s. 48.273, the child, any parent, guardian, and legal custodian of the child, any foster parent or other
8 physical custodian described in s. 48.62 (2) of the child, the unborn child's guardian ad litem, if
9 applicable, and any person specified in par. (b), (d), or (e), if applicable, of all hearings involving the
10 child except hearings on motions for which notice must be provided only to the child and his or her
11 counsel and, if applicable, to the unborn child's guardian ad litem. If parents who are entitled to notice
12 have the same place of residence, notice to one constitutes notice to the other. The first notice to any
13 interested party, foster parent, or other physical custodian described in s. 48.62 (2) shall be in writing
14 and may have a copy of the petition attached to it. Notices of subsequent hearings may be given by
15 telephone at least 72 hours before the time of the hearing. The person giving telephone notice shall place
16 in the case file a signed statement of the time notice was given and the person to whom he or she spoke.

History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 Wis. 2d xiv (1987); 1987 a. 403; 1991 a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 1999 a. 32, 149; 2005 a. 293; 2005 a. 443 s. 265; 2007 a. 96; 2009 a. 28, 79, 94.

17 SECTION 11. 48.27 (3) (c) of the statutes is amended to read:

18 48.27 (3) (c) If the petition that was filed relates to facts concerning a situation
19 under s. 48.133 involving an expectant mother who is an adult, the court shall notify,
20 under s. 48.273, the unborn child by the unborn child's guardian ad litem, the
21 expectant mother, the physical custodian of the expectant mother, if any, and any
22 person specified in par. (d), if applicable, of all hearings involving the unborn child
23 and expectant mother except hearings on motions for which notice need only be
24 provided to the expectant mother and her counsel and the unborn child through the
25 unborn child's guardian ad litem. The first notice to any interested party shall be
26 written and may have a copy of the petition attached to it. Thereafter, notice of
27 hearings may be given by telephone at least 72 hours before the time of the hearing.

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1 The person giving telephone notice shall place in the case file a signed statement of
2 the time notice was given and the person to whom he or she spoke.

History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 Wis. 2d xiv (1987); 1987 a. 403; 1991 a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 1999 a. 32, 149; 2005 a. 293; 2005 a. 443 s. 295; 2007 a. 96; 2009 a. 28, 79, 94.

3 **SECTION 12. 48.29** (1) of the statutes is amended to read:

4 48.29 (1) The child, the child's parent, guardian or legal custodian, the
5 expectant mother, or ~~the unborn child~~ [✓] by the unborn child's guardian ad litem, either
6 before or during the plea hearing, may file a written request with the clerk of the
7 court or other person acting as the clerk for a substitution of the judge assigned to
8 the proceeding. Upon filing the written request, the filing party shall immediately
9 mail or deliver a copy of the request to the judge named in the request. When any
10 person has the right to request a substitution of judge, that person's counsel or
11 guardian ad litem may file the request. Not more than one such written request may
12 be filed in any one proceeding, nor may any single request name more than one judge.

13 This section does not apply to proceedings under s. 48.21 or 48.213.

History: 1977 c. 354; 1979 c. 32 s. 92 (1); 1979 c. 300; 1987 a. 151; 1991 a. 263; 1993 a. 98; 1995 a. 77; 1997 a. 35, 292.

14 **SECTION 13. 48.293** (2) of the statutes is amended to read:

15 48.293 (2) All records relating to a child, or to an unborn child and the unborn
16 child's expectant mother, ~~which~~ [✓] that are relevant to the subject matter of a
17 proceeding under this chapter shall be open to inspection by a guardian ad litem or
18 counsel for any party and to inspection by the court-appointed special advocate for
19 the child, upon demand and upon presentation of releases when necessary, at least
20 48 hours before the proceeding. ~~Persons and unborn children, by their guardians ad~~
21 ~~litem,~~ entitled to inspect the records may obtain copies of the records with the
22 permission of the custodian of the records or with permission of the court. The court
23 may instruct counsel, a guardian ad litem, or a court-appointed special advocate not
24 to disclose specified items in the materials to the child or the parent, or to the

1 expectant mother, if the court reasonably believes that the disclosure would be
2 harmful to the interests of the child or the unborn child.

3 History: 1977 c. 354; 1985 a. 262; 1989 a. 121; 1993 a. 16; 1995 a. 77, 275; 1997 a. 292; 1999 a. 149; 2005 a. 42.

SECTION 14. 48.293 (3) of the statutes is amended to read:

4 48.293 (3) Upon request prior to the fact-finding hearing, counsel for the
5 interests of the public shall disclose to the child, through his or her counsel or
6 guardian ad litem, or to the unborn child, through the unborn child's guardian ad
7 litem, the existence of any audiovisual recording of an oral statement of a child under
8 s. 908.08 which ~~that~~ is within the possession, custody, or control of the state and shall
9 make reasonable arrangements for the requesting person to view the statement. If,
10 after compliance with this subsection, the state obtains possession, custody, or
11 control of such a statement, counsel for the interests of the public shall promptly
12 notify the requesting person of that fact and make reasonable arrangements for the
13 requesting person to view the statement.

14 History: 1977 c. 354; 1985 a. 262; 1989 a. 121; 1993 a. 16; 1995 a. 77, 275; 1997 a. 292; 1999 a. 149; 2005 a. 42.

SECTION 15. 48.297 (6) of the statutes is amended to read:

15 48.297 (6) A motion required to be served on a child may be served on his or
16 her attorney of record. ~~A motion required to be served on an unborn child may be
17 served on the unborn child's guardian ad litem.~~

18 History: 1977 c. 354; 1979 c. 300, 331, 359; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1995 a. 77; 1997 a. 35, 292.

SECTION 16. 48.299 (1) (a) of the statutes is amended to read:

19 48.299 (1) (a) The general public shall be excluded from hearings under this
20 chapter and from hearings by courts exercising jurisdiction under s. 48.16 unless a
21 public fact-finding hearing is demanded by a child through his or her counsel, by an
22 expectant mother through her counsel, or by an unborn child through the unborn
23 child's guardian ad litem. However, the court shall refuse to grant the public hearing
24 in a proceeding other than a proceeding under s. 48.375 (7), if a parent, guardian,

1 expectant mother, or ~~unborn child through the~~ unborn child's guardian ad litem
2 objects.

History: 1979 c. 300; 1981 c. 353; 1985 a. 311; 1987 a. 27; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1991 a. 263, 269; 1993 a. 16, 32, 98, 227, 228, 395; 1995 a. 77, 201, 275; 1997 a. 35, 252, 292, 334; 1999 a. 32, 149; 2005 a. 443 s. 265; 2009 a. 28, 94, 180.

3 **SECTION 17. 48.30** (2) of the statutes is amended to read:

4 48.30 (2) At the commencement of the hearing under this section the child and
5 the parent, guardian, legal custodian, or Indian custodian; the child expectant
6 mother, her parent, guardian, legal custodian, or Indian custodian, and ~~the unborn~~
7 ~~child through the~~ unborn child's guardian ad litem; or the adult expectant mother
8 and ~~the unborn child through~~ the unborn child's guardian ad litem; shall be advised
9 of ~~their~~ the rights as specified in s. 48.243 and shall be informed that a request for
10 a jury trial or for a substitution of judge under s. 48.29 must be made before the end
11 of the plea hearing or is waived. Nonpetitioning parties, including the child, shall
12 be granted a continuance of the plea hearing if they wish to consult with an attorney
13 on the request for a jury trial or substitution of a judge.

History: 1977 c. 354, 355, 447; 1979 c. 300, 331, 355, 379; 1985 a. 321, 332; 1987 a. 151; 1987 a. 403 s. 256; Sup. Ct. Order, 158 Wis. 2d xvii (1990); 1993 a. 163, 474, 481; 1995 a. 77, 225, 404, 417; 1997 a. 3, 252, 292; 1999 a. 103; 2001 a. 61; 2007 a. 20; 2009 a. 94.

14 **SECTION 18. 48.31** (2) of the statutes is amended to read:

15 48.31 (2) The hearing shall be to the court unless the child, the child's parent,
16 guardian, or legal custodian, ~~the unborn child by~~ the unborn child's guardian ad
17 litem, or the expectant mother of the unborn child exercises the right to a jury trial
18 by demanding a jury trial at any time before or during the plea hearing. If a jury trial
19 is demanded in a proceeding under s. 48.13 or 48.133, the jury shall consist of 6
20 persons. If a jury trial is demanded in a proceeding under s. 48.42, the jury shall
21 consist of 12 persons unless the parties agree to a lesser number. Chapters 756 and
22 805 shall govern the selection of jurors. If the hearing involves a child victim or
23 witness, as defined in s. 950.02, the court may order that a deposition be taken by

1 audiovisual means and allow the use of a recorded deposition under s. 967.04 (7) to
2 (10) and, with the district attorney, shall comply with s. 971.105. At the conclusion
3 of the hearing, the court or jury shall make a determination of the facts, except that
4 in a case alleging a child or an unborn child to be in need of protection or services
5 under s. 48.13 or 48.133, the court shall make the determination under s. 48.13
6 (intro.) or 48.133 relating to whether the child or unborn child is in need of protection
7 or services that can be ordered by the court. If the court finds that the child or unborn
8 child is not within the jurisdiction of the court or, in a case alleging a child or an
9 unborn child to be in need of protection or services under s. 48.13 or 48.133, that the
10 child or unborn child is not in need of protection or services that can be ordered by
11 the court or if the court or jury finds that the facts alleged in the petition have not
12 been proved, the court shall dismiss the petition with prejudice.

History: 1977 c. 354, 447; 1979 c. 32 s. 92 (13); 1979 c. 300, 331, 355, 357, 359; 1983 a. 197; 1985 a. 262 s. 8; 1987 a. 339; 1993 a. 481; 1995 a. 77, 275, 404, 448; 1997
a. 3, 35, 292; 1999 a. 103; 2001 a. 105; 2005 a. 42; 2007 a. 20; 2009 a. 94.

13 **SECTION 19.** 48.315 (1) (b) of the statutes is amended to read:

14 48.315 (1) (b) Any period of delay resulting from a continuance granted at the
15 request of or with the consent of the child and his or her counsel or of ~~the unborn child~~
16 ~~by~~ the unborn child's guardian ad litem. ✓

History: 1977 c. 354; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 403; 1991 a. 263; 1993 a. 98; 1997 a. 292; 2001 a. 16, 109; 2007 a. 20, 199; 2009 a. 94.

17 **SECTION 20.** 48.32 (1) (a) of the statutes is amended to read:

18 48.32 (1) (a) At any time after the filing of a petition for a proceeding relating
19 to s. 48.13 or 48.133 and before the entry of judgment, the judge or a circuit court
20 commissioner may suspend the proceedings and place the child or expectant mother
21 under supervision in the home or present placement of the child or expectant mother.
22 The court may establish terms and conditions applicable to the child and the child's
23 parent, guardian, or legal custodian, to the child expectant mother and her parent,
24 guardian or legal custodian, or to the adult expectant mother, including the condition

1 specified in sub. (1b). The order under this section shall be known as a consent decree
2 and must be agreed to by the child if 12 years of age or older, the parent, guardian,
3 or legal custodian, and the person filing the petition under s. 48.25; by the child
4 expectant mother, her parent, guardian, or legal custodian, ~~the unborn child by the~~
5 unborn child's guardian ad litem[✓] and the person filing the petition under s. 48.25;
6 or by the adult expectant mother, ~~the unborn child by the unborn child's guardian~~
7 ad litem[✓] and the person filing the petition under s. 48.25. The consent decree shall
8 be reduced to writing and given to the parties.

History: 1977 c. 354; 1985 a. 311; 1987 a. 27, 285, 339; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 448; 1997 a. 292; 1999 a. 149; 2001 a. 61, 109; 2007 a. 20; 2009 a. 28, 79, 94, 185; s. 13.92 (2) (i).

9 **SECTION 21.** 48.32 (2) (c) of the statutes is amended to read:

10 48.32 (2) (c) Upon the motion of the court or the application of the child, parent,
11 guardian, legal custodian, expectant mother[✓], ~~unborn child by the~~ unborn child's
12 guardian ad litem, intake worker, or any agency supervising the child or expectant
13 mother under the consent decree, the court may, after giving notice to the parties to
14 the consent decree, their counsel or guardian ad litem, and the court-appointed
15 special advocate for the child, if any, extend the decree for up to an additional 6
16 months in the absence of objection to extension by the parties to the initial consent
17 decree. If the child, parent, guardian, legal custodian, expectant mother or ~~unborn~~
18 ~~child by the~~[✓] unborn child's guardian ad litem objects to the extension, the judge shall
19 schedule a hearing and make a determination on the issue of extension. An
20 extension under this paragraph of a consent decree relating to an unborn child who
21 is alleged to be in need of protection or services may be granted after the child is born.

History: 1977 c. 354; 1985 a. 311; 1987 a. 27, 285, 339; 1991 a. 213, 253, 315; 1993 a. 98; 1995 a. 24, 77, 448; 1997 a. 292; 1999 a. 149; 2001 a. 61, 109; 2007 a. 20; 2009 a. 28, 79, 94, 185; s. 13.92 (2) (i).

22 **SECTION 22.** 48.355 (2) (b) 1m. of the statutes is amended to read:

1 48.355 (2) (b) 1m. A notice that the child's parent, guardian, or legal custodian,
2 the child, if 14 years of age or over, the expectant mother, if 14 years of age or over,
3 or ~~the unborn child by~~ the unborn child's guardian ad litem may request an agency
4 that is providing care or services for the child or expectant mother or that has legal
5 custody of the child to disclose to, or make available for inspection by, the parent,
6 guardian, legal custodian, child, expectant mother, or ~~unborn child by the~~ unborn
7 child's guardian ad litem the contents of any record kept or information received by
8 the agency about the child or expectant mother as provided in s. 48.78 (2) (ag) and
9 (aj).

History: 1977 c. 354; 1979 c. 295, 300, 359; 1983 a. 27, 102, 399, 538; 1985 a. 29; 1987 a. 27, 339, 383; 1989 a. 31, 41, 86, 107, 121, 359; 1991 a. 39; 1993 a. 98, 334, 377, 385, 395, 446, 481, 491; 1995 a. 27, 77, 201, 225, 275; 1997 a. 27, 205, 237, 292; 1999 a. 9, 103, 149, 186; 2001 a. 2, 16, 109; 2005 a. 277; 2007 a. 20, 116; 2009 a. 28, 79, 94, 185, 302; s. 13.92 (2) (i).

10 **SECTION 23.** 48.355 (2) (d) of the statutes is amended to read:

11 48.355 (2) (d) The court shall provide a copy of a dispositional order relating
12 to a child in need of protection or services to the child's parent, guardian, legal
13 custodian, or trustee, to the child through the child's counsel or guardian ad litem,
14 to the child's court-appointed special advocate, and, if the child is an Indian child
15 who has been removed from the home of his or her parent or Indian custodian and
16 placed outside that home, to the Indian child's Indian custodian and tribe. The court
17 shall provide a copy of a dispositional order relating to an unborn child in need of
18 protection or services to the expectant mother, to ~~the unborn child through~~ the
19 unborn child's guardian ad litem, to the parent, guardian, legal custodian, or trustee
20 of a child expectant mother, and, if the expectant mother is an Indian child, to the
21 expectant mother's Indian custodian and tribe.

History: 1977 c. 354; 1979 c. 295, 300, 359; 1983 a. 27, 102, 399, 538; 1985 a. 29; 1987 a. 27, 339, 383; 1989 a. 31, 41, 86, 107, 121, 359; 1991 a. 39; 1993 a. 98, 334, 377, 385, 395, 446, 481, 491; 1995 a. 27, 77, 201, 225, 275; 1997 a. 27, 205, 237, 292; 1999 a. 9, 103, 149, 186; 2001 a. 2, 16, 109; 2005 a. 277; 2007 a. 20, 116; 2009 a. 28, 79, 94, 185, 302; s. 13.92 (2) (i).

22 **SECTION 24.** 48.357 (1) (am) 1. of the statutes is amended to read:

1 48.357 (1) (am) 1. If the proposed change in placement involves any change in
 2 placement other than a change in placement specified in par. (c), the person or agency
 3 primarily responsible for implementing the dispositional order, the district attorney,
 4 or the corporation counsel shall cause written notice of the proposed change in
 5 placement to be sent to the child, the parent, guardian, and legal custodian of the
 6 child, any foster parent, treatment foster parent, or other physical custodian
 7 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,
 8 and, if the child is an Indian child who has been removed from the home of his or her
 9 parent or Indian custodian, the Indian child's Indian custodian and tribe. If the child
 10 is the expectant mother of an unborn child under s. 48.133, written notice shall also
 11 be sent to ~~the unborn child~~ by the unborn child's guardian ad litem. If the change
 12 in placement involves an adult expectant mother of an unborn child under s. 48.133,
 13 written notice shall be sent to the adult expectant mother and ~~the unborn child~~ by
 14 the unborn child's guardian ad litem. The notice shall contain the name and address
 15 of the new placement, the reasons for the change in placement, a statement
 16 describing why the new placement is preferable to the present placement, and a
 17 statement of how the new placement satisfies objectives of the treatment plan
 18 ordered by the court.

NOTE: NOTE: Subd. 1. is repealed and recreated by 2009 Wis. Act 94 effective the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9), as created by 2009 Wisconsin Act 28 to read:NOTE:

19 **SECTION 25.** 48.357 (1) (am) 1. of the statutes, as affected by 2009 Wisconsin
 20 Act 94, section 81, and 2011 Wisconsin Act (this act), is repealed and recreated to
 21 read:

22 48.357 (1) (am) 1. If the proposed change in placement involves any change in placement other
 23 than a change in placement specified in par. (c), the person or agency primarily responsible for
 24 implementing the dispositional order, the district attorney, or the corporation counsel shall cause written
 25 notice of the proposed change in placement to be sent to the child, the parent, guardian, and legal
 26 custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child,

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1 the child's court-appointed special advocate, and, if the child is an Indian child who has been removed
 2 from the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe.
 3 If the child is the expectant mother of an unborn child under s. 48.133, written notice shall also be sent
 4 to the unborn child's guardian ad litem. If the change in placement involves an adult expectant mother
 5 of an unborn child under s. 48.133, written notice shall be sent to the adult expectant mother and the
 6 unborn child's guardian ad litem. The notice shall contain the name and address of the new placement,
 7 the reasons for the change in placement, a statement describing why the new placement is preferable
 8 to the present placement, and a statement of how the new placement satisfies objectives of the treatment
 9 plan ordered by the court.

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History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (1) (bm) 2.

SECTION 26. 48.357 (1) (am) 2. b. of the statutes is amended to read:

48.357 (1) (am) 2. b. By the child expectant mother, if 12 years of age or over,
 her parent, guardian, legal custodian, or Indian custodian, the unborn child by the
 unborn child's guardian ad litem, and the child expectant mother's tribe, if she is an
 Indian child who has been removed from the home of her parent or Indian custodian.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (1) (bm) 2.

SECTION 27. 48.357 (1) (am) 2. c. of the statutes is amended to read:

48.357 (1) (am) 2. c. By the adult expectant mother and the unborn child by the
 unborn child's guardian ad litem.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (1) (bm) 2.

SECTION 28. 48.357 (2m) (a) of the statutes is amended to read:

48.357 (2m) (a) The child, the parent, guardian, legal custodian, or Indian
 custodian of the child, the expectant mother, the unborn child by the unborn child's
 guardian ad litem, or any person or agency primarily bound by the dispositional
 order, other than the person or agency responsible for implementing the order, may
 request a change in placement under this paragraph. The request shall contain the
 name and address of the new placement requested and shall state what new
 information is available that affects the advisability of the current placement. If the
 proposed change in placement would change the placement of a child placed in the
 child's home to a placement outside the child's home, the request shall also contain

1 specific information showing that continued placement of the child in the home
2 would be contrary to the welfare of the child and, unless any of the circumstances
3 under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that the agency
4 primarily responsible for implementing the dispositional order has made reasonable
5 efforts to prevent the removal of the child from the home, while assuring that the
6 child's health and safety are the paramount concerns. The request shall be
7 submitted to the court. The court may also propose a change in placement on its own
8 motion.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (1) (bm) 2.

9 **SECTION 29. 48.357 (2m) (b)** of the statutes is amended to read:

10 **48.357 (2m) (b)** The court shall hold a hearing prior to ordering any change in
11 placement requested or proposed under par. (a) if the request states that new
12 information is available that affects the advisability of the current placement. A
13 hearing is not required if the requested or proposed change in placement does not
14 involve a change in placement of a child placed in the child's home to a placement
15 outside the child's home, written waivers of objection to the proposed change in
16 placement are signed by all persons entitled to receive notice under this paragraph,
17 other than a court-appointed special advocate, and the court approves. If a hearing
18 is scheduled, not less than 3 days before the hearing the court shall notify the child,
19 the parent, guardian, and legal custodian of the child, any foster parent, treatment
20 foster parent, or other physical custodian described in s. 48.62 (2) of the child, the
21 child's court-appointed special advocate, all parties who are bound by the
22 dispositional order, and, if the child is an Indian child, the Indian child's Indian
23 custodian and tribe. If the child is the expectant mother of an unborn child under
24 s. 48.133, the court shall also notify ~~the unborn child by~~ the unborn child's guardian

1 ad litem. If the change in placement involves an adult expectant mother of an unborn
 2 child under s. 48.133, the court shall notify the adult expectant mother, ~~the unborn~~
 3 ~~child~~ by the unborn child's guardian ad litem, and all parties who are bound by the
 4 dispositional order, at least 3 days prior to the hearing. A copy of the request or
 5 proposal for the change in placement shall be attached to the notice. Subject to par.
 6 (br), if all of the parties consent, the court may proceed immediately with the hearing.

NOTE: NOTE: Par. (b) is repealed and recreated by 2009 Wis. Act 94 effective the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9), as created by 2009 Wisconsin Act 26 to read as follows. The cross-reference to par. (b) was changed from par. (bm) by the legislative reference bureau under s. 13.92 (1) (bm) 2. to reflect the renumbering under s. 13.92 (1) (bm) 2. of par. (bm), as created by 2009 Wis. Act 94. NOTE:

7 **SECTION 30.** 48.357 (2m) (b) of the statutes, as affected by 2009 Wisconsin Act

8 94, section 92, and 2011 Wisconsin Act ... (this act), is repealed and recreated to read:

9 **48.357 (2m) (b)** The court shall hold a hearing prior to ordering any change in placement requested
 10 or proposed under par. (a) if the request states that new information is available that affects the
 11 advisability of the current placement. A hearing is not required if the requested or proposed change in
 12 placement does not involve a change in placement of a child placed in the child's home to a placement
 13 outside the child's home, written waivers of objection to the proposed change in placement are signed
 14 by all persons entitled to receive notice under this paragraph, other than a court-appointed special
 15 advocate, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the
 16 court shall notify the child, the parent, guardian, and legal custodian of the child, any foster parent or
 17 other physical custodian described in s. 48.62 (2) of the child, the child's court-appointed special
 18 advocate, all parties who are bound by the dispositional order, and, if the child is an Indian child, the
 19 Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under
 20 s. 48.133, the court shall also notify the unborn child's guardian ad litem. If the change in placement
 21 involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult
 22 expectant mother, the unborn child's guardian ad litem, and all parties who are bound by the
 23 dispositional order, at least 3 days prior to the hearing. A copy of the request or proposal for the change
 24 in placement shall be attached to the notice. Subject to par. (br), if all of the parties consent, the court
 25 may proceed immediately with the hearing.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (1) (bm) 2.

26 **SECTION 31.** 48.363 (1) (a) of the statutes is amended to read:

27 **48.363 (1) (a)** A child, the child's parent, guardian, legal custodian, or Indian
 28 custodian, an expectant mother, an ~~unborn child~~ by the unborn child's guardian ad
 29 litem, any person or agency bound by a dispositional order, or the district attorney
 30 or corporation counsel in the county in which the dispositional order was entered
 31 may request a revision in the order that does not involve a change in placement,

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1 including a revision with respect to the amount of child support to be paid by a
 2 parent. The court may also propose a revision. The request or court proposal shall
 3 set forth in detail the nature of the proposed revision and what new information is
 4 available that affects the advisability of the court's disposition. The request or court
 5 proposal shall be submitted to the court. The court shall hold a hearing on the matter
 6 prior to any revision of the dispositional order if the request or court proposal
 7 indicates that new information is available which affects the advisability of the
 8 court's dispositional order, unless written waivers of objections to the revision are
 9 signed by all parties entitled to receive notice and the court approves.

History: 1977 c. 354; 1979 c. 300; 1985 a. 172; 1993 a. 481; 1995 a. 275, 404; 1997 a. 3, 80, 237, 292; 1999 a. 103, 149; 2001 a. 38, 109; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (2) (i).

10 SECTION 32. 48.363 (1) (b) of the statutes is amended to read:

11 48.363 (1) (b) If a hearing is held, at least 3 days before ~~prior to the~~ the hearing
 12 the court shall notify the child, the child's parent, guardian, legal custodian, and
 13 Indian custodian, all parties bound by the dispositional order, the child's foster
 14 parent, treatment foster parent, or other physical custodian described in s. 48.62 (2),
 15 the child's court-appointed special advocate, the district attorney or corporation
 16 counsel in the county in which the dispositional order was entered, and, if the child
 17 is an Indian child who is placed outside the home of his or her parent or Indian
 18 custodian, the Indian child's tribe. If the child is the expectant mother of an unborn
 19 child under s. 48.133, the court shall also notify ~~the unborn child by~~ the unborn
 20 child's guardian ad litem. If the proceeding involves an adult expectant mother of
 21 an unborn child under s. 48.133, the court shall notify the adult expectant mother,
 22 ~~the unborn child through~~ the unborn child's guardian ad litem, all parties bound by
 23 the dispositional order, and the district attorney or corporation counsel in the county
 24 in which the dispositional order was entered, at least 3 days prior to the hearing.

1 A copy of the request or proposal shall be attached to the notice. If all parties consent,
2 the court may proceed immediately with the hearing. No revision may extend the
3 effective period of the original order.

NOTE: NOTE: Par. (b) is shown as affected by 2009 Wis. Act 79, s. 38, and 2009 Wis. Act 94, s. 100, and as merged by the legislative reference bureau under s. 13.92 (2) (i). The language in square brackets was inserted by Act 79 but made unnecessary by the treatment by Act 94. The language in curly brackets was deleted by 2009 Wis. Act 79, s. 38, but the treatment by 2009 Wis. Act 94, s. 100, requires its reinsertion in order to give effect to that treatment. Corrective legislation is pending. Par. (b) is repealed and recreated by 2009 Wis. Act 94, s. 101, effective the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read: NOTE:

4 SECTION 33. 48.363 (1) (b) of the statutes, as affected by 2009 Wisconsin Act 94,
5 section 101, and 2011 Wisconsin Act ... (this act), is repealed and recreated to read:

6 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court shall notify the child,
7 the child's parent, guardian, legal custodian, and Indian custodian, all parties bound by the dispositional
8 order, the child's foster parent or other physical custodian described in s. 48.62 (2), the child's
9 court-appointed special advocate, the district attorney or corporation counsel in the county in which the
10 dispositional order was entered, and, if the child is an Indian child who is placed outside the home of
11 his or her parent or Indian custodian, the Indian child's tribe. If the child is the expectant mother of an
12 unborn child under s. 48.133, the court shall also notify the unborn child's guardian ad litem. If the
13 proceeding involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify
14 the adult expectant mother, the unborn child's guardian ad litem, all parties bound by the dispositional
15 order, and the district attorney or corporation counsel in the county in which the dispositional order was
16 entered, at least 3 days prior to the hearing. A copy of the request or proposal shall be attached to the
17 notice. If all parties consent, the court may proceed immediately with the hearing. No revision may
18 extend the effective period of the original order.

History: 1977 c. 354; 1979 c. 300; 1985 a. 172; 1993 a. 481; 1995 a. 275, 404; 1997 a. 3, 80, 237, 292; 1999 a. 103, 149; 2001 a. 38, 109; 2007 a. 20; 2009 a. 28, 79, 94; s. 13.92 (2) (i).

19 SECTION 34. 48.365 (1m) of the statutes is amended to read:

20 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,
21 expectant mother, ~~unborn child by the~~ unborn child's guardian ad litem, any person
22 or agency bound by the dispositional order, the district attorney or corporation
23 counsel in the county in which the dispositional order was entered, or the court on
24 its own motion may request an extension of an order under s. 48.355 including an
25 order under s. 48.355 that was entered before the child was born. The request shall
26 be submitted to the court that entered the order. An order under s. 48.355 may be
27 extended only as provided in this section.

History: 1977 c. 354; 1979 c. 300; 1983 a. 351, 399, 538; 1985 a. 172; 1987 a. 383; 1989 a. 31, 86, 107, 359; 1993 a. 16, 98, 377, 446; 1995 a. 27, 77, 275; 1997 a. 27, 80, 237, 292; 1999 a. 32, 149; 2001 a. 109; 2007 a. 199; 2009 a. 26, 79, 94, 185; s. 13.92 (1) (bm) 2., (2) (i).

28 SECTION 35. 48.365 (2) of the statutes is amended to read:

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1 48.365 (2) No order may be extended without a hearing. The court shall
 2 provide notice of the time and place of the hearing to the child, the child's parent,
 3 guardian, legal custodian, and Indian custodian, all the parties present at the
 4 original hearing, the child's foster parent, treatment foster parent, or other physical
 5 custodian described in s. 48.62 (2), the child's court-appointed special advocate, the
 6 district attorney or corporation counsel in the county in which the dispositional order
 7 was entered and, if the child is an Indian child who is placed outside the home of his
 8 or her parent or Indian custodian, the Indian child's tribe. If the child is an expectant
 9 mother of an unborn child under s. 48.133, the court shall also notify [✓]the unborn child
 10 by the unborn child's guardian ad litem. If the extension hearing involves an adult
 11 expectant mother of an unborn child under s. 48.133, the court shall notify the adult
 12 expectant mother, [✓]the unborn child through the unborn child's guardian ad litem, all
 13 the parties present at the original hearing, and the district attorney or corporation
 14 counsel in the county in which the dispositional order was entered, of the time and
 15 place of the hearing.

NOTE: NOTE: Sub. (2) is repealed and recreated by [✓]2009 Wis. Act 94 effective the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9), as created by 2009 Wisconsin Act 28 to read:NOTE:

16 ^{LPS- check font type} SECTION 36. 48.365 (2) of the statutes, as affected by 2009 Wisconsin Act 94,
 17 section 104, and 2011 Wisconsin Act ... (this act), is repealed and recreated to read:

18 48.365 (2) No order may be extended without a hearing. The court shall provide notice of the time
 19 and place of the hearing to the child, the child's parent, guardian, legal custodian, and Indian custodian,
 20 all the parties present at the original hearing, the child's foster parent or other physical custodian
 21 described in s. 48.62 (2), [✓]the child's court-appointed special advocate, the district attorney or
 22 corporation counsel in the county in which the dispositional order was entered and, if the child is an
 23 Indian child who is placed outside the home of his or her parent or Indian custodian, the Indian child's
 24 tribe. If the child is an expectant mother of an unborn child under s. 48.133, [✓]the court shall also notify
 25 the unborn child's guardian ad litem. If the extension hearing involves an adult expectant mother of an
 26 unborn child under s. 48.133, [✓]the court shall notify the adult expectant mother, [✓]the unborn child's
 27 guardian ad litem, all the parties present at the original hearing, and the district attorney or corporation
 28 counsel in the county in which the dispositional order was entered, of the time and place of the hearing.

History: 1977 c. 354; 1979 c. 300; 1983 a. 351, 399, 538, 1985 a. 172; 1987 a. 383; 1989 a. 31, 86, 107, 359; 1993 a. 16, 98, 377, 446; 1995 a. 27, 77, 275; 1997 a. 27, 80, 237, 292; 1999 a. 32, 149; 2001 a. 109; 2007 a. 199; 2009 ~~a.~~ 28, 79, 94, 185; s. 13.92 (1) (bm) 2., (2) (i).

29 SECTION 37. 48.396 (1b) of the statutes is amended to read:

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12 pt font

1 48.396 (1b) If requested by the parent, guardian, or legal custodian of a child
2 who is the subject of a law enforcement officer's report, or if requested by the child,
3 if 14 years of age or over, a law enforcement agency may, subject to official agency
4 policy, provide to the parent, guardian, legal custodian, or child a copy of that report.
5 If requested by the parent, guardian, or legal custodian of a child expectant mother
6 of an unborn child who is the subject of a law enforcement officer's report, if requested
7 by an expectant mother of an unborn child who is the subject of a law enforcement
8 officer's report, if 14 years of age or over, or if requested by an unborn child through
9 the unborn child's guardian ad litem, a law enforcement agency may, subject to
10 official agency policy, provide to the parent, guardian, legal custodian, expectant
11 mother or unborn child by the unborn child's guardian ad litem a copy of that report.

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; Stats. 1977 s. 48.396; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 98, 195, 228, 334, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 302, 338.

12 **SECTION 38.** 48.396 (1d) of the statutes is amended to read:

13 48.396 (1d) Upon the written permission of the parent, guardian, or legal
14 custodian of a child who is the subject of a law enforcement officer's report or upon
15 the written permission of the child, if 14 years of age or over, a law enforcement
16 agency may, subject to official agency policy, make available to the person named in
17 the permission any reports specifically identified by the parent, guardian, legal
18 custodian or child in the written permission. Upon the written permission of the
19 parent, guardian, or legal custodian of a child expectant mother of an unborn child
20 who is the subject of a law enforcement officer's report, or of an expectant mother of
21 an unborn child who is the subject of a law enforcement officer's report, if 14 years
22 of age or over, and of the unborn child by the unborn child's guardian ad litem, a law
23 enforcement agency may, subject to official agency policy, make available to the
24 person named in the permission any reports specifically identified by the parent,

1 guardian, legal custodian or expectant mother, and ~~unborn child by the~~ [✓]unborn
2 child's guardian ad litem in the written permission.

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; ~~Stats. 1977 s. 48.396~~; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 88, 195, 228, 334, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; ~~2005 a. 344, 434~~; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 302, 338.

3 **SECTION 39.** ~~48.396~~ (2) (aj) of the statutes is amended to read:

4 48.396 (2) (aj) Upon request of the parent, guardian, or legal custodian of a
5 child expectant mother of an unborn child who is the subject of a record of a court
6 specified in par. (a), upon request of an expectant mother of an unborn child who is
7 the subject of a record of a court specified in par. (a), if 14 years of age or over, or upon
8 request of an ~~unborn child by the~~ [✓]unborn child's guardian ad litem, the court shall
9 open for inspection by the parent, guardian, legal custodian, expectant mother, or
10 ~~unborn child by the~~ unborn child's guardian ad litem the records of the court relating
11 to that expectant mother, unless the court finds, after due notice and hearing, that
12 inspection of those records by the parent, guardian, legal custodian, expectant
13 mother, or ~~unborn child by the~~ [✓]unborn child's guardian ad litem would result in
14 imminent danger to anyone.

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; ~~Stats. 1977 s. 48.396~~; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 98, 195, 228, ~~344~~, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; 2005 a. 344, ~~434~~; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 302, 338.

15 **SECTION 40.** 48.396 (2) (ap) of the statutes is amended to read:

16 48.396 (2) (ap) Upon the written permission of the parent, guardian, or legal
17 custodian of a child expectant mother of an unborn child who is the subject of a record
18 of a court specified in par. (a), or of an expectant mother of an unborn child who is
19 the subject of a record of a court specified in par. (a), if 14 years of age or over, and
20 of the ~~unborn child by~~ [✓]unborn child's guardian ad litem, the court shall open for
21 inspection by the person named in the permission any records specifically identified
22 by the parent, guardian, legal custodian, or expectant mother, and ~~unborn child by~~ [✓]
23 the unborn child's guardian ad litem in the written permission, unless the court

1 finds, after due notice and hearing, that inspection of those records by the person
2 named in the permission would result in imminent danger to anyone.

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; Stats. 1977 s. 48.396; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 98, 198, 228, 334, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 302, 338.

3 **SECTION 41.** 48.396 (5) (b) of the statutes is amended to read:

4 48.396 (5) (b) The court shall notify the child, the child's counsel, the child's
5 parents, appropriate law enforcement agencies, and, if the child is an expectant
6 mother of an unborn child under s. 48.133, ~~the unborn child by~~ the unborn child's
7 guardian ad litem, or shall notify the adult expectant mother, ~~the unborn child by~~ the
8 unborn child's guardian ad litem, and appropriate law enforcement agencies, in
9 writing of the petition. If any person notified objects to the disclosure, the court may
10 hold a hearing to take evidence relating to the petitioner's need for the disclosure.

History: 1971 c. 278; 1977 c. 354 s. 47; 1977 c. 449; Stats. 1977 s. 48.396; 1979 c. 300; 1979 c. 333 s. 5; 1983 a. 74 s. 32; 1983 a. 487, 538; 1985 a. 311, 332; 1987 a. 27, 180, 403; 1989 a. 31, 107, 145; 1991 a. 39, 263; 1993 a. 98, 195, 228, 334, 479, 491; 1995 a. 27 ss. 2479 to 2480m, 9126 (19); 1995 a. 77, 173, 275, 352, 440, 448; 1997 a. 35, 80, 191, 205, 252, 292; 1999 a. 32, 89; 2003 a. 82; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97; 2009 a. 302, 338.

11 **SECTION 42.** 48.46 (1) of the statutes is amended to read:

12 48.46 (1) Except as provided in subs. (1m), (2), and (3), the child whose status
13 is adjudicated by the court, the parent, guardian, or legal custodian of that child, the
14 guardian ad litem of an unborn child whose status is adjudicated by the court, or the
15 expectant mother of that unborn child may at any time within one year after the
16 entering of the court's order petition the court for a rehearing on the ground that new
17 evidence has been discovered affecting the advisability of the court's original
18 adjudication. Upon a showing that such evidence does exist, the court shall order a
19 new hearing.

History: 1977 c. 449; 1979 c. 300; 1987 a. 383; Sup. Ct. Order, 146 Wis. 2d xxxiii (1988); 1995 a. 275; 1997 a. 104, 114, 252, 292; 2009 a. 94.

20 **SECTION 43.** 48.78 (2) (aj) of the statutes is amended to read:

21 48.78 (2) (aj) Paragraph (a) does not prohibit an agency from making available
22 for inspection or disclosing the contents of a record, upon the request of a parent,
23 guardian, or legal custodian of a child expectant mother of an unborn child who is

1 the subject of the record, upon the request of an expectant mother of an unborn child
 2 who is the subject of the record, if 14 years of age or over, or upon the request of an
 3 ~~unborn child by the~~ unborn child's guardian ad litem[✓] to the parent, guardian, legal
 4 custodian, expectant mother, or ~~unborn child by the~~[✓] unborn child's guardian ad
 5 litem, unless the agency determines that inspection of the record by the parent,
 6 guardian, legal custodian, expectant mother, or ~~unborn child by the~~[✓] unborn child's
 7 guardian ad litem would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a); 2009 a. 79, 185, 302, 338; s. 13.92 (2) (i).

8 **SECTION 44. 48.78 (2) (ap)** of the statutes is amended to read:

9 48.78 (2) (ap) Paragraph (a) does not prohibit an agency from making available
 10 for inspection or disclosing the contents of a record, upon the written permission of
 11 the parent, guardian, or legal custodian of a child expectant mother of an unborn
 12 child who is the subject of the record, or of an expectant mother of an unborn child
 13 who is the subject of the record, if 14 years of age or over, and of ~~the unborn child by~~
 14 the unborn child's guardian ad litem[✓], to the person named in the permission if the
 15 parent, guardian, legal custodian, or expectant mother, and ~~unborn child by the~~[✓]
 16 unborn child's guardian ad litem, specifically identify the record in the written
 17 permission, unless the agency determines that inspection of the record by the person
 18 named in the permission would result in imminent danger to anyone.

History: 1979 c. 34; 1981 c. 359; 1983 a. 471 s. 7; 1985 a. 29 s. 3202 (23); 1985 a. 176, 292, 332; 1987 a. 332; 1989 a. 31, 107, 336; 1991 a. 17, 39; 1993 a. 16, 92, 95, 218, 227, 377, 385, 395, 479, 491; 1995 a. 27 ss. 2610 to 2614p, 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283, 292; 2001 a. 38, 69, 104, 109; 2005 a. 25, 293, 344, 406, 434; 2007 a. 20 ss. 1364, 9121 (6) (a); 2009 a. 79, 185, 302, 338; s. 13.92 (2) (i).

19 **SECTION 45. Effective dates.** This act takes effect on the day after publication,

20 except as follows:

21 (1) TREATMENT FOSTER HOMES. The repeal and recreation of sections 48.27 (3)

22 (a) 1., 48.357 (1) (am) 1. and (2m) (b), 48.363 (1) (b), and 48.365 (2) of the statutes
 23 takes effect on (takes effect on) the date stated in the notice provided by the secretary

on the day after publication
or

1 of children and families and published in the Wisconsin Administrative Register
2 under section 48.62 (9) of the statutes.

3

(END)

^ whichever is
later

Malaise, Gordon

From: Sappenfield, Anne
Sent: Thursday, January 12, 2012 2:56 PM
To: Malaise, Gordon
Subject: law revision drafts

Attachments: lrb0568.doc; lrb0569.doc

Hi Gordon!

DCF has ok'd a couple of drafts you drafted for consideration by the Law Revision Committee. They are 0568 and 0569. The committee may meet on Jan. 26 or 31 or Feb. 2. I am attaching notes that I would like inserted in the drafts if there is time.

Thanks and let me know if you have any questions.

Hope you are well,



lrb0568.doc (28 KB) lrb0569.doc (28 KB)

Anne

Anne Sappenfield
Senior Staff Attorney
WI Legislative Council
(608) 267-9485

A & E ref A 48.20 (8)(b) ✓
B 48.365 (2) ✓
C 48.396 (1b)
D " (2) (ap)
E (5)(b) ✓
F 48.476 (1) ✓
G 48.78 (2) (ap)
H 48.78 (2) (ap)